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In re Application of ITO et al :
U.S. Application No.: 10/516,638 :
PCT Application No.: PCT/JP02/11785 :
Int. Filing Date: 12 November 2002 : DECISION
Priority Date Claimed: 06 June 2002 :
Attorney Docket No.: 14633.5USWO :
For: PROCESS FOR DEUTERATION OF INERT :
METHYLENE :

This is in response to applicant's "Request for Corrected Filing Receipt" filed 30 September 2005, which is being treated as a petition under 37 CFR 1.10(c). No petition fee is due.

BACKGROUND

On 12 November 2002, applicant filed international application PCT/JP02/11785, which claimed priority of an earlier Japan application filed 06 June 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 18 December 2003. The thirty-month period for paying the basic national fee in the United States expired on 06 December 2004.

On 15 November 2004, applicant purportedly filed national stage papers in the United States Designated/Elected Office (DO/EO/US) via the Express Mail Post Office to Addressee service of the USPS ("Express Mail"). The submission, which was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1), was accorded a receipt date of 02 December 2004.

On 29 April 2005, the DO/EO/US mailed a Notice of Acceptance of Application Under 35 U.S.C. 371 (Form PCT/DO/EO/903), which indicated 02 December 2004 as the date of receipt of the 35 U.S.C. 371 requirements.

On 30 September 2005, applicant filed the present petition under 37 CFR 1.10(c).

DISCUSSION

37 CFR 1.10(c) states,

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
- (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

With regard to item (1) above, the petition was promptly filed after applicant became aware of the accorded receipt date of the national stage papers.

With regard to item (2) above, a review of the certificate of mailing and the Express Mail mailing label indicates that the Express Mail mailing label number was placed on the correspondence in question prior to the original mailing by Express Mail.

With regard to item (3) above, the copy of the Express Mail mailing label filed with the petition fails to show a "date-in" of 15 November 2004.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.10(c) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(c)".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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